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A PROPOSAL for a MINORITY JOURNEYWORKER  
REFERRAL SERVICE

Submitted to the  
STATE OF NEW JERSEY  
DEPARTMENT of the TREASURY  
STATE AFFIRMATIVE ACTION OFFICE

Submitted by:

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PROPOSAL SUMMARY

Gustav Heningburg Associates, Inc. (GHA), has developed a complete minority classification and referral service to assist minority and female construction workers in finding employment opportunities in the construction trades. The service will also assist public agencies and their contractors in meeting the minority goals in construction employment as set by the State Affirmative Action Office pursuant to Public Law 1975, Chapter 127. The purpose of Chapter 127 was to overcome the past history of discrimination and exclusion of minorities from the construction work force.

Currently, there exists limited or no referral agency for minority construction workers in Essex, Morris, Union, Hudson, Passaic and Bergen Counties to assist contractors in fulfilling the good faith efforts mandated in the State Affirmative Action Regulations on State financed or otherwise publicly assisted projects. Similarly, no such referral system is available to assist in providing minority craftsworkers the opportunity to work on the increasing numbers of projects which are joint public sector/private sector efforts, such as Urban Development Action Grants (UDAG) or the New Jersey Economic Development

Authority (EDA) sponsored or assisted construction. Finally, extremely limited service is available for those projects which are privately developed and financed, but which enjoy local tax abatement or some other form of indirect public subsidy, and therefore require minority/female employment opportunities. Without adequate referral sources, employment practices and patterns in the construction trades will not change.

More than one hundred (100) qualified AFL-CIO affiliated minority tradesworkers have been identified to begin the project immediately. These minority craftworkers represent the following trades: Bricklayers, Carpenters, Cement Finishers, Electricians, Ironworkers, Operating Engineers, Painters, Plasterers, Plumbers/Pipefitters, Steamfitters, Roofers and Sheetmetal Workers.

In addition, more than one hundred (100) minority tradesworkers who have varying degrees of construction training and experience, but who are not affiliated with an AFL-CIO union have also been identified.

## PROBLEM STATEMENT

In New Jersey today, virtually every large construction contractor, with the exception of home builders, is a union contractor. There are several reasons for this:

1. Unions control the primary source of skilled construction labor. Large contractors need a continuous reliable source of journeymen workers. Workers are hired only for as long as needed and then are discharged, at which time they await a new referral.
2. Many manufacturers will not guarantee their products unless they are installed by qualified workers and the one acceptable test of qualification is journey worker status given by a union.
3. Large construction jobs often have many tiers of subcontractors on the site at the same time. Cooperation between these contractors and their work crews is a must for a smooth daily on-the-job performance. Union workers often will not cooperate with non-union workers.
4. New Jersey Law does not require that public projects be built by union contractors. Practically speaking, however, most large construction projects in New Jersey are performed by union contractors. A contractor achieves this status by signing a collective bargaining agreement with the unions which includes a clause giving the AFL-CIO unions exclusive job referral rights.

This type of job security provision, referred to as a "hiring hall clause," is one of the most jealously guarded provisions in the collective bargaining agreement. It commits the union contractor to using the union hiring hall as the sole source of labor. This vests the union with almost absolute control over who shall be entitled to do construction work in a particular craft in a given geographical area.

However, the U.S. Department of Justice, the Office of Federal Contract Compliance Programs (OFCCP), and a series of federal court decisions in New Jersey have clearly established that the AFL-CIO construction unions have abused the exclusive referral privilege as it relates to permitting minorities and women to join their unions, and of referring

those minority craftworkers equitably who do achieve union membership. The Department of Justice has negotiated Consent Decrees with seven craft unions in Essex County alone based on the exclusion of minority workers.

More recently, the complexity and resistance of good faith on the part of the AFL-CIO unions to cooperate in the resolution of this problem has been demonstrated by the fact that the State of New Jersey awarded four separate contracts, totaling almost \$250,000 to the New Jersey Building Trades Council (BTC). This money, provided from the Governor's Discretionary CETA Fund, was awarded for the purpose of having the BTC inventory the number of minorities in their unions across the state, so that the Department of Labor and Industry (L&I) could intelligently develop a program to increase minority participation.

The BTC has sought, and received from L&I, three extensions of the original contract, with additional funds provided with each extension, on the grounds that they were having difficulty getting the cooperation of their own member locals in providing the information. The final report was due to be presented on March 1, 1981, but as of July 1, 1981, no report on minority membership has yet been filed with the state. This matter is currently under investigation at the direction of the Governor.

These examples serve to illustrate the dilemma faced by an owner/contractor who is required to assure that an appropriate number of the hours worked on state funded projects be performed by minorities/females. If the contractor, in good faith, requests such workers from the traditional referral sources and is unable to get them...there are two

predictable results:

1. The contractor is in violation of New Jersey Public Law, 1975, Chapter 127, and therefore subject to possible fine or debarment from further state work --  
  
and
2. In frustration of the intent of the Legislature and the Governor, minority/female workers are consistently denied the opportunity for employment and experience in the construction industry.

The following proposal, submitted to the New Jersey State Affirmative Action Office (NJAAO) is designed to address this problem, to assist contractors in meeting their affirmative action goals, and to encourage union membership by minorities and women.

However, it is important to keep in mind that New Jersey State Law does not require publicly assisted or financed construction to be done by union contractors alone. Therefore, the services proposed herein will assist non-union contractors working on such projects in exactly the same fashion as it assists union contractors.

PROJECT PROPOSAL OBJECTIVES

Gustav Henningburg Associates (GHA), is a minority owned and operated management consulting firm based in Newark, New Jersey. The experience and qualifications of the principals of this firm appear in the Appendix to this proposal.

GHA has established a minority construction craftworker classification and referral system. It is intended to assist contractors who are required by law to meet affirmative action goals, to provide them an alternative source from which to seek minority/female workers if they are not available from the traditional referral sources.

It is projected that within 45 days, all projects in Bergen, Essex, Hudson, Middlesex, Morris, Passaic and Union counties which have affirmative action requirements can be serviced within the limits of the members of qualified minority workers in the area. These projections are based on the numbers of minority craftworkers already identified.

This classification and referral service is designed to complement the efforts of the State of New Jersey, Department of Labor and Industry, Division of Employment Services; and other agencies, trade associations, union and non-union referral agencies.



#### METHODOLOGY

To achieve the proposed objectives, the following steps have/should be undertaken:

1. The State Affirmative Action Office will advise all contractors, upon contract award, that GHA should be contacted for referrals in the event the contractor is unable to meet their minority goals.
2. GHA will locate, classify and computerize all appropriate information about potential minority craftworkers in the counties identified. Each potential worker will be contacted personally so that all pertinent information which will be computerized will be current. This information will include name; address; telephone number or other contact method; age; Social Security Number; trade; training and employment experience; union membership, if applicable.

Where necessary, GHA personnel will assist the potential worker in matters such as verifying employment history, etc., and any other counselling services required. This information will be immediately retrievable and available to contractors who request workers.

3. All union contractors who are awarded public agency construction projects must notify the unions that will be participating on the site that if they cannot fulfill the need for minority tradeworkers that Heningsburg Associates will be used for outreach and referrals of qualified craftworkers.
4. GHA will also advise all of the appropriate traditional referral sources for a particular project that we are working on behalf of the State of New Jersey to assist in meeting contractor minority goals, if required. Also, GHA shall advise the unions, on projects being planned by union contractors, that any minority referrals will first be sent to the appropriate union hiring hall to secure a temporary work permit before being referred to the job site for employment.
5. A copy of the contractors projected manning report will be solicited from the public agency to enable Heninsoburg Associates ample time to target minority craftworkers that may be needed on the project.
6. The contractor or the public agency compliance officer shall request a minority craftworker be referred to the construction site by Heningsburg Associates if the traditional referral services cannot fill the request

or when a contractor is found to be out of compliance by the public agency or the State Affirmative Action Office.

Three fundamental principles must be emphasized here:

1. GHA should not be contacted until the appropriate traditional referral sources have been given the opportunity to provide the minority/female workers. In addition, GHA will, as a matter of policy and practice, encourage and assist such persons to make every effort to join the union appropriate to their trade. It is important to understand that this is not an anti-union effort. Quite the contrary, in fact. Union membership should substantially increase under this program.
2. This "back-up" referral system for minorities/females in no way places any contractor in a legal conflict with the conditions of his collective bargaining agreement. Typical collective bargaining agreements contain the following language:

A Union shall establish and maintain at its own expense an appropriate registration facility, also known as hiring hall, for qualified applicants available for employment as journeymen. The employer shall hire qualified journeymen by calling the Union. Whenever an employer requires a journeyman, he shall notify the local union office. In the event there are no journeymen registered on the out-of-work list or the union is unable to refer to the employer the requested number of journeymen within forty-eight hours, the employer shall be entitled to seek his journeymen from any other source.

3. It is expected that before a contractor hires a minority/female referred by GHA on union projects, the worker will be sent to the appropriate union hall for a temporary work permit. This procedure protects the interest of the worker, the contractor and the union, and eliminates potential administrative problems for the contractor, who is required by law to compensate union and non-union workers with similar wages and fringes. This procedure was established by the Federal Courts, and requires the union to provide a permit and refer to the job any worker sent to the hiring hall under such a plan.

PROJECT EVALUATION

GHA, in conjunction with the State Affirmative Action Office project monitoring staff, will provide periodic on-site evaluation of persons referred to determine if any unusual problems are being encountered by any of the parties. Job supervisors will be asked to provide basic evaluation of the work performance of the referred workers; wages and fringes paid; days worked and dates of layoff. This information will become a part of the computerized file kept on each referral for future reference. GHA personnel, in conjunction with the State Affirmative Action Office, will also investigate circumstances surrounding any complaints lodged by the contractor, public agency or referred workers on the job site.

#### PERFORMANCE MONITORING

GHA will prepare periodic reports for submission to the State Affirmative Action Office which will measure the success of the project. These reports will include statistical data on the number of requests made; referrals actually provided; wages earned; problems encountered; and any other information required by the State Affirmative Action Office.

#### FEE SCHEDULE

GHA Proposes to charge a fee for this service based on a number of variables, including the location of the construction project; the total cost of the project; and the minority goals which are mandated by the State Affirmative Action Office. The fee, for each project, must be the subject of negotiation between GHA and the appropriate state agency, but under no circumstance will it exceed  $\frac{1}{2}$  of 1% of the total dollar value of the project. Consistent with the regulations promulgated by the State Treasurer to implement Public Law 1975, Chapter 127, the fee for each project will be negotiated separately.

#### NOTE

Gustav Henningburg Associates is a 100% minority owned and operated management consulting firm, incorporated in the State of New Jersey and located in Newark, New Jersey. Background information on each of its principals is attached. It is certified as a minority firm by the New York/New Jersey Minority Purchasing Council and by the Atlantic City Minority Entrepreneurship Committee.

APPENDIX

See attached resumes.